



## **CALIFORNIA STATE PERSONNEL BOARD MEETING**

801 Capitol Mall  
Sacramento, California

### Public Session Location –

**San Francisco Civic Center Complex  
Hiram W. Johnson Building  
Santa Barbara Room  
455 Golden Gate Avenue  
San Francisco, CA 94102**

Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California, Suite 620

### Closed Session Location –

San Francisco Civic Center Complex  
Hiram W. Johnson Building  
Santa Barbara Room  
455 Golden Gate Avenue  
San Francisco, CA 94102

Teleconference – 320 West 4<sup>th</sup> Street  
Los Angeles, California Suite 620

**SUMMARY MINUTES – DECEMBER 5, 2006**

## **FULL BOARD MEETING MINUTES<sup>1</sup>**

**DECEMBER 5, 2006**

### **PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

#### **1. ROLL CALL**

**Sean Harrigan, Vice President**  
**Maeley Tom, Member**  
**Anne Sheehan, Member**  
**Patricia Clarey, Member**

#### **2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**

- A.** After the lunch break, we will continue with the Planning Session discussion on HR reform that we began at the meeting in San Diego last month. This afternoon we will discuss the topics of workforce development (training), Equal Employment Opportunity (EEO), and performance development (discipline). We will also discuss our timeline for implementation.
- B.** The Bureau of State Audits contacted us about a study or project they are working on relating to succession planning. We will provide them with information we have developed.
- C.** At the next full board meeting, Dr. Steve Weyers will give an update on the possible Avian flu pandemic.
- D.** Also, at the next full board meeting, the SPB staff will discuss the current SSA exam process and its effect on the State's ability to recruit and hire college graduates.

#### **3. REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) – Maeley Tom**

Member Maeley Tom gave a brief report on recent activities of the Public Employees Retirement System.

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<sup>1</sup> The Minutes for the Board Meetings can be obtained at the following internet address:  
<http://www.spb.ca.gov/calendar.htm>

**4. REPORT OF THE CHIEF COUNSEL – Elise Rose**

IUOE v. SPB (PERB Case No. SA-CE-1295-S) – The Public Employment Relations Board issued its long-awaited decision finding that the Board did not commit an unfair labor practice when it refused to approve settlement agreements arrived at through the Board of Adjustment process.

The Board's decision in Snell/Villareal is in the appellate court and an oral argument on the matter will be conducted on January 12, 2007.

The Board's decision in Waters is in the appellate court and an oral argument on the matter will be conducted on January 3, 2007, in Riverside.

Recent correspondence from the Plata Receiver, wherein the receiver threatened to name the Board as defendants in the Plata lawsuit, will be discussed in closed session as pending litigation.

**5. NEW BUSINESS**

**NONE PRESENTED**

**6. REPORT ON LEGISLATION – Sherry Evans**

**NONE PRESENTED**

**7. ORAL ARGUMENT**

In the matter of **CASE NO. 05-0947A**. Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency.

Persons Participating:

Alfred Klein, Attorney, representing appellant.

Barrett W. McInerney, Labor Relations Counsel, Department of Personnel  
Administration, representing department.

**ACTION: SUBMITTED**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

**8. REPORT OF THE DEPARTMENT OF PERSONNEL ADMINISTRATION (DPA)  
– DPA Representative**

Division Chief Daryll Tsujihara gave a brief report on recent activities of the Department of Personnel Administration.

**9. SUMMARY RECOMMENDATIONS, ASSESSMENT OF THE DEPARTMENT OF CORRECTIONS AND REHABILITATION HUMAN RESOURCES**  
**– Karen Coffee, State Personnel Board**

In May, 2005, Governor Schwarzenegger signed SB737 that, effective July 1, 2005, consolidated the Department of Corrections, Department of the Youth Authority, Board of Corrections, Board of Prison Terms, Youthful Offender Parole Board, Prison Industry Authority, and the Commission on Correctional Peace Officer Standards and Training into the new Department of Corrections and Rehabilitation as recommended by the Independent Review Panel in 2004. This is the single biggest consolidation in the state's history. It created a department that accounts for approximately 25% of the state workforce. Approximately one year later, and in the face of mounting lawsuits (Plata, Coleman, Farrell, Perez, and Madrid), the new Agency Secretary, James Tilton in conjunction with the Governor's Office requested a review of the effectiveness of HR at CDCR.

Because the report has not been finalized and released by the department, the presentation focused on the process and on what could be identified as measures of effectiveness in three general categories:

- Structure, Staff Resources, and Workload
- Program Effectiveness
- Staff and Management Effectiveness

The review team report has been submitted to the department; they will finalize the report by reviewing the recommendations and developing an action plan to address critical issues.

When finalized, SPB staff intends to develop a template for use by departments to evaluate the effectiveness of their HR operations. Sean Harrigan requested that staff provide the board members with a copy of the key recommendations when the report is finalized.

**10. STATE PERSONNEL BOARD HERO PRESENTATION**

SPB staff showed their appreciation and honor to Bev Augustine, Chief Deputy Director, Department of Consumer Affairs, who has dedicated herself to the improvement of Human Resources in State government. Although not working in Human Resources, Ms. Augustine has generously given her time at the California Performance Review and, most recently, as a member of the HR Assessment Team that reviewed the Division of Human Resources, California Department of Corrections and Rehabilitation. Both of these efforts have provided roadmaps to a more effective civil service system.

**CLOSED SESSION OF THE STATE PERSONNEL BOARD**

**11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.  
[Government Code Sections 11126(d), 18653.]

**12. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]  
(See Action Taken on Pages 10–18)

**13. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.  
[Government Code sections 11126(e)(1) and 18653.]

International Union of Operating Engineers v. State Personnel Board,  
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

Patrick McCollum v. State of California  
United States District Court, Northern District of California  
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.  
Case No. C01-1351 TEH

**14. RECOMMENDATIONS TO THE LEGISLATURE**

Deliberations on recommendations to the legislature.  
[Government Code section 18653.]

**NO ACTION**

**15. RECOMMENDATIONS TO THE GOVERNOR**

Deliberations on recommendations to the Governor.  
[Government Code section 18653.]

**NO ACTION**

**PUBLIC SESSION OF THE STATE PERSONNEL BOARD**

16. **DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF DECEMBER 19, 2006, IN SACRAMENTO, CALIFORNIA**

**NONE**

**BOARD ACTIONS:**

17. **ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF OCTOBER 31, 2006**

**ACTION: ADOPTED**

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

18. **ADOPTION OF THE PROPOSED STATE PERSONNEL BOARD 2007 MEETING SCHEDULE**

**ACTION: ADOPTED AS AMENDED**

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

19. **EVIDENTIARY CASES**

**ACTION: See Case Listings on Pages 10–20**

20. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes on Pages 29–30)**

**ACTION: ADOPTED**

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

21. **NON-EVIDENTIARY CASES**

**ACTION: See Case Listings on Pages 20–24**

22. **NON-HEARING CALENDAR**

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

- A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

**NONE**

- B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

**THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD** propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

**NONE**

**23. STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

**NONE**

**24. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY**

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

- A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION**

**CHIEF, MEDI-CAL BENEFITS AND RATES DIVISION, MEDICAL CARE SERVICES**

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief Medi-Cal Benefits and Rates Division is the principal policy-maker and advisor regarding issues with significant policy impact on benefits to citizens, rates to providers, and amongst various beneficiary and provider groups.

**DIRECTOR OF HUMAN RESOURCES**

The Department of Food and Agriculture proposes to allocate the above position to the CEA category. The Director of Human Resources is responsible for planning, organizing and directing, and controlling a variety of administrative functions.

**PROGRAM MANAGER, MOTOR VEHICLE GREENHOUSE GAS  
EMISSION REDUCTION**

The Air Resources Board proposes to allocate the above position to the CEA category, on a permanent basis. This CEA allocation was previously approved on a limited term basis. The Program Manager, Motor Vehicle Greenhouse Gas Emission Reduction is responsible for the development of mobile source-related policies and strategies for consideration by the Air Resources Board that will help achieve the Governor's greenhouse gas reduction targets.

**B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO  
ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS**

**DEPUTY CHIEF, DIVISION OF LAND RESOURCE PROTECTION**

The Department of Conservation has withdrawn their proposal to allocate the above position to the CEA category effective October 31, 2006.

**ACTION: NOTED**

**25. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

**26. WRITTEN STAFF REPORT FOR BOARD INFORMATION**

**ANNUAL CENSUS OF EMPLOYEES IN THE STATE CIVIL SERVICE,  
2005-2006 FISCAL YEAR**

Government Code sections 19237, 19405, 19705, 19792.5(b) and 19793 require the State Personnel Board to provide the Governor and Legislature with an Annual Report regarding the state civil service workforce. This report covers the 2005-06 fiscal year. SPB staff is requesting the Board to approve this report for submission to the Governor and the Legislature.

**ACTION: ADOPTED**

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

**27. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY**

**NONE**



**28. RESOLUTION WAIVING DRUG TESTING REQUIREMENT FOR APPLICANTS TO LICENSED VOCATIONAL NURSE POSITIONS WITHIN THE DEPARTMENT OF CORRECTIONS AND REHABILITATION**

Federal Receiver Robert Sillen has requested a waiver of the pre-employment drug testing requirement found in the class specification for Licensed Vocational Nurses now being considered for hire to positions within the Department of Corrections and Rehabilitation. Executive Officer Floyd Shimomura has granted the waiver, subject to ratification by the Board. Vote to adopt an amended resolution ratifying the action of the Executive Officer.

**NO ACTION**

**28. BOARD ACTIONS ON SUBMITTED ITEMS**

**ACTION: See Minutes on Pages 25–28**

**29. PLANNING SESSION – State Personnel Board Staff**

**A D J O U R N M E N T**

**WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 19 – 21  
AS NOTED.**

**19. EVIDENTIARY CASES**

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

**A. BOARD CASES SUBMITTED**

These items have been taken under submission by the State Personnel Board at a prior meeting.

On December 5, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

**(1) CASE NO. 05-1737RPA**

Appeal from dismissal

**Classification:** Psychiatric Technician Assistant

**Department:** Department of Developmental Services

Petition for Rehearing granted March 8, 2006.

Oral argument heard July 11, 2006.

Case ready for decision by FULL Board.

**NO ACTION**

**(2) CASE NO. 05-2596A**

**CASE NO. 05-2592A and 06-0016A**

Appeal from formal reprimand and formal reprimand and five workday's suspension

**Classification:** Physician and Surgeon, Correctional Facility

**Department:** Department of Corrections and Rehabilitation

Proposed decision rejected June 6, 2006.

Oral argument heard October 10, 2006.

Case ready for decision by FULL Board.

**ACTION:** The Board (Members Clarey, Sheehan, and Tom) issued a non-precedential decision finding that appellants were required to comply with the Department of Corrections and Rehabilitation's directive that they attend a physician competency evaluation, and sustained the official reprimands in SPB Case Nos. 05-2592 and 05-2596, and the five-days suspension in SPB Case No. 06-0016. Vice-President Harrigan dissents, and would revoke the disciplinary actions on the grounds that the Department was not authorized to issue the directive.

- (3) **CASE NO. 05-3030A**  
Appeal from constructive demotion  
**Classification:** Officer Technician  
**Department:** Department of Developmental Services

Proposed decision rejected May 2, 2006.  
Oral argument heard October 31, 2006.  
Case ready for decision by FULL Board.

**NO ACTION**

- (4) **CASE NO. 05-1351A**  
Appeal from dismissal  
**Classification:** Youth Correctional Officer  
**Department:** Department of the Youth Authority

Proposed decision rejected April 4, 2006.  
Oral argument heard September 5, 2006.  
Case ready for decision by FULL Board.

**ACTION:** The Board issued a non-precedential decision revoking appellant's dismissal on the grounds that the disciplinary action was not served on appellant within the requisite limitations period.

- (5) **CASE NO. 05-1875A**  
Appeal from rejection during probationary period  
**Classification:** Equipment Material Specialist  
**Department:** Department of Transportation

Proposed decision rejected August 8, 2006.  
Oral argument heard October 31, 2006.  
Case ready for decision by FULL Board.

**NO ACTION**

- (6) **CASE NO. 05-0078A**  
Appeal from dismissal  
**Classification:** Workers' Compensation Payroll Auditor  
**Department:** State Compensation Insurance Fund

Proposed decision rejected May 23, 2006.  
Oral argument heard September 5, 2006.  
Case ready for decision by FULL Board.

**NO ACTION**

**(7) CASE NO. 05-0207PA**

Appeal from constructive medical suspension

**Classification:** Facility Captain

**Department:** Department of Corrections and Rehabilitation

Petition for Rehearing granted March 8, 2006.

Oral argument heard October 10, 2006.

Case ready for decision by FULL Board.

**ACTION:** During its meeting of October 10, 2006, the Board adopted the ALJ's Proposed Decision dismissing the appeal and a Resolution to that effect was issued. However, the Board inadvertently did not publicly announce its decision in the case. As a result, the Board publicly clarified the matter during this meeting.

**(8) PSC NO. 06-03**

Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services

**Department:** Department of California Highway Patrol

**Employee Organization:** Services Employees International Union, Local 1000 (CSEA)

Oral argument heard October 10, 2006.

Case ready for decision by FULL Board.

**NO ACTION**

**(9) CASE NO. 05-4330A**

Appeal from dismissal

**Classification:** Custodian Supervisor II

**Department:** Department of Corrections and Rehabilitation

**ACTION:** During its meeting of October 10, 2006, the Board adopted the ALJ's Proposed Decision sustaining the dismissal, except for the portion of the Proposed Decision related to immorality and a Resolution to that effect was issued. However, the Board inadvertently did not publicly announce its decision in the case. As a result, the Board publicly clarified the matter during this meeting.

**B. CASES PENDING**

**ORAL ARGUMENTS**

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session bases on written arguments submitted by the parties.

On December 5, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

**(1) CASE NO. 05-0947A**

Appeal from dismissal

**Classification:** Housing Finance Specialist (General)

**Department:** California Housing Finance Agency

**ACTION: SUBMITTED**

**C. CHIEF COUNSEL RESOLUTIONS**

**NONE**

**COURT REMANDS**

**NONE**

**STIPULATIONS**

**NONE**

**D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS**

**PROPOSED DECISIONS**

These were ALJ's proposed decisions submitted to the Board for the first time.

On December 5, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

**(1) CASE NO. 05-3773**

Appeal from dismissal

**Classification:** Senior Transportation Engineer

**Department:** Department of Transportation

**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the dismissal.

- (2) **CASE NO. 05-2585**  
Appeal from 10 percent reduction in salary for 13 pay periods  
**Classification:** Correctional Sergeant  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the reduction in salary.
- (3) **CASE NO. 05-3690**  
Appeal from 10 percent reduction in salary for 12 months  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.
- (4) **CASE NO. 06-2707**  
Appeal from 10 percent reduction in salary for 6 months  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (5) **CASE NO. 06-1799**  
Appeal from 5 percent reduction in salary for 6 months  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (6) **CASE NO. 05-1652**  
Appeal from 20 working days suspension  
**Classification:** Officer  
**Department:** Department of California Highway Patrol  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the suspension.
- (7) **CASE NO. 06-2272**  
Appeal from official letter of reprimand  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the letter of reprimand.

- (8) **CASE NO. 06-0826**  
Appeal from two days suspension  
**Classification:** Patrol Officer  
**Department:** California State University, San Bernardino  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the suspension.
- (9) **CASE NO. 05-0973E**  
Appeal from denial of discrimination complaint  
**Classification:** Academic Teacher  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision denying the complaint.
- (10) **CASE NO. 06-1465**  
Appeal from 10 percent reduction in salary for 24 months  
**Classification:** Correctional Sergeant  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision modifying the reduction in salary.
- (11) **CASE NO. 06-1433**  
Appeal from official/formal reprimand  
**Classification:** Codes and Standards Administrator I  
**Department:** Department of Housing and Community Development  
**ACTION:** The Board adopted the ALJ's Proposed Decision, except for that portion of the Proposed Decision that defines discourteous treatment of the public or other employees under Government Code section 19572(m).
- (12) **CASE NO. 06-1556**  
Appeal from rejection during probation  
**Classification:** Heavy Fire Equipment Operator  
**Department:** Department of Forestry and Fire Protection  
**ACTION:** The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (13) **CASE NO. 06-1814**  
Appeal from official letter of reprimand  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** **SUBMITTED**

- (14) **CASE NO. 05-0929**  
Appeal from rejection during probation  
**Classification:** Health Program Manager I  
**Department:** Department of Health Services  
**ACTION:** The Board adopted the ALJ's Proposed Decision to set aside the rejection and grant the appeal.
- (15) **CASE NO. 05-1939E**  
Appeal from denial of reasonable accommodation  
**Classification:** Hearing Reporter  
**Department:** Workers Compensation Appeals Board  
**ACTION:** The Board adopted the ALJ's Proposed Decision denying the request for reasonable accommodation.
- (16) **CASE NO. 04-0750E**  
Appeal from discrimination and retaliation complaint  
**Classification:** Office Assistant (Typing)  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision dismissing the complaints.
- (17) **CASE NO. 05-2450**  
Appeal from 10 percent reduction in salary for 12 pay periods  
**Classification:** Youth Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.
- (18) **CASE NO. 05-0927B**  
Appeal for back salary determination  
**Classification:** Correctional Sergeant  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board rejected the ALJ's Proposed Decision granting back salary benefits and interest.
- (19) **CASE NO. 06-2288**  
Appeal from 30 work days' suspension  
**Classification:** Correctional Lieutenant  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the suspension.
- (20) **CASE NO. 06-1310**  
Appeal from 14 working days' suspension  
**Classification:** Regional Administrator  
**Department:** Department of Corrections and Rehabilitation  
**ACTION:** **SUBMITTED**



**(21) CASE NO. 05-3003**

Appeal from 10 percent reduction in salary for 18 months

**Classification:** Medi-Cal Technician I

**Department:** Department of Health Services

**ACTION:** The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.

**(22) CASE NO. 05-3425**

Appeal from constructive demotion

**Classification:** Managing Deputy Commissioner IV

**Department:** Department of Real Estate

**ACTION:** The Board adopted the ALJ's Proposed Decision dismissing the appeal.

**(23) CASE NO. 05-3402**

Appeal from three day suspension and five percent reduction in salary for three pay periods

**Classification:** Fire Apparatus Engineer

**Department:** Department of Forestry and Fire Protection

**ACTION:** The Board adopted the ALJ's Proposed Decision except for that portion of the Proposed Decision finding that appellant's conduct did not constitute legal cause for discipline under Government Code section 1957(o) (willful disobedience).

**PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING**

NONE

**PROPOSED DECISIONS AFTER BOARD REMAND**

**(24) CASE NO. 06-0571R**

Appeal from five percent reduction in salary for 12 months

**Classification:** Supervising Correctional Cook

**Department:** Department of Corrections and Rehabilitation

**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.

**PROPOSED DECISIONS AFTER SPB ARBITRATION**

**(25) CASE NO. 06-1276**

Appeal from five working day's suspension

**Classification:** Sergeant

**Department:** Department of California Highway Patrol

**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the suspension.

**(26) CASE NO. 06-1953**

Appeal from five working day's suspension

**Classification:** Officer

**Department:** Department of California Highway Patrol

**ACTION:** The Board adopted the ALJ's Proposed Decision revoking the suspension.

**E. PETITIONS FOR REHEARING**

**ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD**

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On December 5, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

**(1) CASE NO. 05-3113P**

Appeal from ten percent reduction in salary for two months

**Classification:** Senior Vocational Rehabilitation Counselor

**Department:** Department of Corrections and Rehabilitation

**ACTION:** Petition for rehearing denied.

**(2) CASE NO. 05-2334P**

Appeal from rejection during probation

**Classification:** Office Assistant (Typing)

**Department:** Department of Social Services

**ACTION:** Petition for rehearing denied.

**WHISTLEBLOWER NOTICE OF FINDINGS**

**NONE**

**F. PENDING BOARD REVIEW**

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On December 5, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **CASE NO. 05-0053A**  
Appeal from dismissal  
**Classification:** Park Maintenance Assistant  
**Department:** Department of Parks and Recreation  
  
Proposed decision rejected October 10, 2006.  
Pending transcript.  
  
**NO ACTION**
- (2) **CASE NO. 06-0760A**  
Appeal from rejection during probation  
**Classification:** Parole Agent I (Adult Parole)  
**Department:** Department of Corrections and Rehabilitation  
  
Proposed decision rejected November 14, 2006.  
Pending transcript.  
  
**NO ACTION**
- (3) **CASE NO. 05-2211A**  
Appeal from dismissal  
**Classification:** Senior Tax Compliance Representative  
**Department:** Employment Development Department  
  
Proposed decision rejected September 20, 2006.  
Transcripts prepared.  
  
**NO ACTION**
- (4) **CASE NO. 05-2888PA**  
Appeal from dismissal  
**Classification:** Staff Services Analyst (General)  
**Department:** Department of Consumer Affairs  
  
Petition for rehearing granted October 31, 2006.  
Pending transcripts.  
  
**NO ACTION**
- (5) **CASE NO. 05-0638A**  
Appeal from dismissal  
**Classification:** Conservationist I  
**Department:** California Conservation Corps  
  
Proposed decision rejected September 5, 2006.  
Transcript prepared.  
  
**NO ACTION**

**(6) CASE NO. 05-0947A**

Appeal from dismissal

**Classification:** Housing Finance Specialist (General)

**Department:** California Housing Finance Agency

Proposed decision rejected July 11, 2006.

Oral argument originally set October 31, 2006, San Diego.

Oral argument heard December 5, San Francisco.

**ACTION: SUBMITTED**

**(7) CASE NO. 04-2919EPA**

Appeal of discrimination and retaliation

**Classification:** Physician and Surgeon

**Department:** Department of Corrections and Rehabilitation

Petition for rehearing granted September 20, 2006.

Transcript prepared.

**NO ACTION**

**(8) CASE NO. 06-0392A**

Appeal of five percent reduction in salary for 24 months

**Classification:** Correctional Officer

**Department:** Department of Corrections and Rehabilitation

Proposed decision rejected October 31, 2006.

Pending transcript.

**NO ACTION**

**21. NON-EVIDENTIARY CASES**

**A. WITHHOLD APPEALS**

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

**WITHHOLD FROM CERTIFICATION**  
**CASES HEARD BY A STAFF HEARING OFFICER**

**NONE**

**WITHHOLD FROM CERTIFICATION**  
**CASES NOT HEARD BY A STAFF HEARING OFFICER**

On December 5, 2006, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

- (1) **CASE NO. 05-2284**  
**Classification:** Tax Auditor  
**Department:** Franchise Tax Board  
**Issue:** Suitability; appellant's misdemeanor convictions and felony conviction.  
**ACTION: DENIED**
- (2) **CASE NO. 05-1975**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for DUI convictions.  
**ACTION: SUBMITTED**
- (3) **CASE NO. 05-1466**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for DUI convictions.  
**ACTION: SUBMITTED**
- (4) **CASE NO. 05-1977**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for DUI convictions.  
**ACTION: SUBMITTED**
- (5) **CASE NO. 05-1029**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for DUI convictions.  
**ACTION: SUBMITTED**

- (6) **CASE NO. 05-1479**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; appellant's failure to disclose two Wet/Reckless convictions.  
**ACTION: DENIED**
- (7) **CASE NO. 05-2290**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for DUI convictions.  
**ACTION: SUBMITTED**
- (8) **CASE NO. 05-3674**  
**Classification:** Hospital Police Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; had a negative employment record.  
**ACTION: DENIED**
- (9) **CASE NO. 05-1169**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections and Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for one DUI conviction.  
**ACTION: SUBMITTED**
- (10) **CASE NO. 05-1681**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for DUI convictions.  
**ACTION: SUBMITTED**
- (11) **CASE NO. 05-1170**  
**Classification:** Correctional Officer  
**Department:** Department of Corrections & Rehabilitation  
**Issue:** Suitability; whether appellant's name was properly withheld for DUI convictions.  
**ACTION: SUBMITTED**

**B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS**

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

On December 5, 2006, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

**(1) CASE NO. 05-3944**

**Classification:** Cadet, CHP

**Department:** California Highway Patrol

**Issue:** The appellant was medically disqualified due to injuries to his neck, back and shoulders that would allow him to safely perform the essential functions of the job.

**ACTION: DENIED**

**(2) CASE NO. 05-1747**

**Classification:** Youth Correctional Officer

**Department:** Department of Corrections and Rehabilitation

**Issue:** The appellant was medically disqualified due to not meeting the vision acuity standards needed to perform the duties of the job.

**ACTION: DENIED**

**(3) CASE NO. 05-0956**

**Classification:** Correctional Officer

**Department:** Department of Corrections & Rehabilitation

**Issue:** The appellant was medically disqualified because his hearing did not meet the hearing standards needed to perform the duties of the job.

**ACTION: DENIED**

**(4) CASE NO. 05-2607**

**Classification:** Correctional Officer

**Department:** Department of Corrections and Rehabilitation

**Issue:** The appellant does not meet the minimum psychological qualification standards for State peace officer employment under Government Code § 1031(f) linked to insufficient conscientiousness and self-control.

**ACTION: DENIED**

C. EXAMINATION APPEALS  
MINIMUM QUALIFICATIONS  
MERIT ISSUE COMPLAINTS

NONE

D. RULE 211 APPEALS  
RULE 212 OUT OF CLASS APPEALS  
VOIDED APPOINTMENT APPEALS

NONE

E. REQUEST TO FILE CHARGES CASES

NONE

PETITIONS FOR REHEARING CASES

NONE



**SUBMITTED**

**1. TEACHER STATE HOSPITAL (SEVERELY), ETC.**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)**

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

**NO ACTION**

**3. TELEVISION SPECIALIST (SAFETY)**

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

**NO ACTION**

**4. HEARING – Personal Services Contract #04-03**

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

**NO ACTION**

**5. HEARING**

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

**NO ACTION**

**6. CASE NO. 05-1737RPA**

Appeal from dismissal. Psychiatric Technician Assistant. Department of Developmental Services. (Oral argument held July 11, 2006.)

**NO ACTION**

**\*7. CASE NO. 00-3446**

Appeal to set aside resignation. Police Officer. California State University, Fresno. (Oral argument held September 5, 2006.)

**NO ACTION**

**\*8. CASE NO. 05-1351A**

Appeal from dismissal. Youth Correctional Officer. Department of Corrections and Rehabilitation. (Oral argument held September 5, 2006.)

**ACTION:** The Board issued a non-precedential decision revoking appellant's dismissal on the grounds that the disciplinary action was not served on appellant within the requisite limitations period.

**\*9. CASE NO. 05-0078A**

Appeal from dismissal. Workers' Compensation Payroll Auditor. State Compensation Insurance Fund. (Oral argument held September 5, 2006.)

**NO ACTION**

**\*10. CASE NO. 05-2596A**

**CASE NO. 05-2592A & 06-0016A**

Appeal from official reprimand and official reprimand and five workdays' suspension. Physician and Surgeon. Correctional Facility. Department of Corrections and Rehabilitation. (Oral argument held October 10, 2006.)

**ACTION:** The Board (Members Clarey, Sheehan, and Tom) issued a non-precedential decision finding that appellants were required to comply with the Department of Corrections and Rehabilitation's directive that they attend a physician competency evaluation, and sustained the official reprimands in SPB Case Nos. 05-2592 and 05-2596, and the five-days suspension in SPB Case No. 06-0016. Vice-President Harrigan dissents, and would revoke the disciplinary actions on the grounds that the Department was not authorized to issue the directive.

**\*11. CASE NO. 05-4330A**

Appeal from dismissal. Custodian Supervisor II. Department of Corrections and Rehabilitation. (Oral argument held October 10, 2006.)

**ACTION:** During its meeting of October 10, 2006, the Board decided to adopt the ALJ's Proposed Decision, except for the portion of the Proposed Decision related to immorality. The Chief Counsel's Office subsequently issued a Resolution to that effect. During the October 10, 2006, meeting, however, the Board inadvertently did not publicly announce its decision in the case. As a result, the Board publicly clarified the matter during this meeting.

**\*12. CASE NO. 05-0207PA**

Appeal for petition for rehearing. Facility Captain. Department of Corrections and Rehabilitation. (Oral argument held October 10, 2006.)

**ACTION:** During its meeting of October 10, 2006, the Board decided to adopt the ALJ's Proposed Decision. The Chief Counsel's Office subsequently issued a Resolution to that effect. During the October 10, 2006, meeting, however, the Board inadvertently did not publicly announce its decision in the case. As a result, the Board publicly clarified the matter during this meeting.

**\*13. PSC NO. 06-03**

Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services. Department of the California Highway Patrol. Service Employees International Union, Local 1000 (CSEA). (Oral argument held October 10, 2006.)

**NO ACTION**

**14. CASE NO. 05-3030A**

Appeal constructive demotion. Office Technician. Department of Developmental Services. (Oral argument held October 31, 2006.)

**NO ACTION**

**15. CASE NO. 05-1875A**

Appeal from rejection during probationary period. Equipment Material Specialist. Department of Transportation. (Oral argument held October 31, 2006.)

**NO ACTION**

**16. CASE NO. 05-0947A**

Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency. (Oral argument held December 5, 2006.)

**NO ACTION**

**17. CASE NO. 06-1814**

Appeal from official letter of reprimand. Correctional Officer. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

**NO ACTION**

**18. CASE NO. 06-1310**

Appeal from 14 working days' suspension. Regional Administrator. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

**NO ACTION**

**19. CASE NO. 05-1975**

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**NO ACTION**

**20. CASE NO. 05-1466**

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**NO ACTION**

**21. CASE NO. 05-1977**

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**NO ACTION**

**22. CASE NO. 05-1029**

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**NO ACTION**

**23. CASE NO. 05-2290**

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**NO ACTION**

**24. CASE NO. 05-1169**

Correctional Officer. Department of Corrections and Rehabilitation. Suitability; whether appellant's name was properly withheld for one DUI conviction. (Presented to Board December 5, 2006.)

**NO ACTION**

**25. CASE NO. 05-1681**

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**NO ACTION**

**26. CASE NO. 05-1170**

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

**NO ACTION**

*\* Item was inadvertently left out from this section of the agenda.*

**NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

**GOVERNMENT CODE SECTION 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

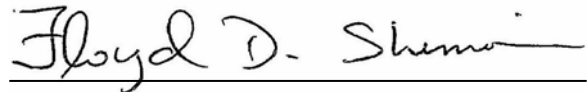
**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on December 5, 2006.

VOTE: Harrigan, Tom, Sheehan, Clarey – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura  
Executive Officer  
California State Personnel Board